

KATHERINE V.A. SMITH, SBN 247866  
ksmith@gibsondunn.com  
BRADLEY J. HAMBURGER, SBN 266916  
bhamburger@gibsondunn.com  
MICHAEL HOLECEK, SBN 281034  
mholecek@gibsondunn.com  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, CA 90071-3197  
Telephone: 213.229.7000  
Facsimile: 213.229.7520

MEGAN COONEY, SBN 295174  
mcooney@gibsondunn.com  
GIBSON, DUNN & CRUTCHER LLP  
3161 Michelson Drive  
Irvine, CA 92612-4412  
Telephone: 949.451.3800  
Facsimile: 949.451.4220

Attorneys for Defendants AMAZON.COM, INC. and  
AMAZON LOGISTICS, INC.

POTTER HANDY LLP  
MARK D. POTTER, SBN 166317  
mark@potterhandy.com  
JAMES M. TREGLIO, SBN 228077  
jimt@potterhandy.com  
8033 Linda Vista Road, Suite 200  
Telephone: 858.375.7385  
Facsimile: 888.422.5191

Attorneys for Plaintiffs RICKY DIAZ, EMANUEL  
ADAMSON, and JUAN MANUEL ALVAREZ

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

RICKY DIAZ, EMANUEL ADAMSON,  
JUAN MANUEL ALVAREZ, individually  
and on behalf of all others similarly situated,

Plaintiffs,

v.

AMAZON.COM, INC., a Delaware  
corporation with its principal place of business  
in Washington, AMAZON LOGISTICS, INC.,  
a Delaware corporation with its principal place  
of business in Washington, and DOES 1 to  
100, inclusive,

Defendants.

CASE NO. 3:20-cv-07792-VC

**JOINT STIPULATION AND [PROPOSED]  
ORDER TO TRANSFER MATTER  
PURSUANT TO FIRST-TO-FILE RULE**

Judge: The Honorable Vince Chhabria

**JOINT STIPULATION**

Pursuant to Northern District Local Rules 7-1 and 7-12, Plaintiffs Ricky Diaz, Emanuel Adamson, and Juan Manuel Alvarez (collectively “Plaintiffs”) and Defendants Amazon.com, Inc. and Amazon Logistics, Inc. (collectively, “Amazon”) (together, the “Parties”), by and through their respective counsel, hereby stipulate and agree as follows:

WHEREAS, on August 21, 2020, Plaintiffs filed their Complaint against Amazon in the Superior Court for Alameda County, California, Case No. RG20072092, alleging various violations of the California Labor Code on behalf of a putative class of California-based Amazon Delivery Partners, based on the theory that Delivery Partners were misclassified as independent contractors (Dkt. 1-1, Ex. B at ¶¶ 5, 29);

WHEREAS, Amazon removed the action to this Court on November 4, 2020 (Dkt. 1);

WHEREAS, prior to the filing of this case, a number of class action complaints were filed on behalf of putative classes of California-based Delivery Partners also alleging that Amazon misclassified Delivery Partners as independent contractors under California law. The first such case, *Rittmann v. Amazon.com Inc.*, was filed in the Western District of Washington in 2016. See *Rittmann, et al. v. Amazon.com, Inc., et al.*, No. 2:16-cv-01554-JCC (W.D. Wash.). A number of subsequently-filed actions have been consolidated with *Rittmann*. See Order Granting in Part Defendants’ Motion to Dismiss, or in the Alternative, Motion to Transfer or Stay, *Mack v. Amazon.com, Inc., et al.*, No. 2:17-cv-02515-AB-RAO (C.D. Cal. Sept. 19, 2017); Stipulation to Transfer Matter, *Ronquillo v. Amazon.com Inc.*, No. 2:19-cv-00207-AB-FFM (C.D. Cal. Mar. 14, 2019); Order Re: Defendants’ Motion to Dismiss, Stay or Transfer the Action, *Hoyt v. Amazon.com, Inc., et al.*, No. 3:19-cv-00218-JSC (N.D. Cal. Mar. 28, 2019). Additionally, two putative class actions, *Keller* and *Ponce*, have been consolidated and transferred from this District to the Western District of Washington under the first-to-file rule. See *Keller v. Amazon.com, Inc., et al.*, No. 3:17-cv-02219-RS (N.D. Cal.); *Ponce v. Amazon.com, Inc., et al.*, No. 3:19-cv-00288-RS (N.D. Cal.). The California class action claims in the consolidated *Rittmann* and *Keller/Ponce* actions for minimum wage, overtime, business expenses, and penalties seek to cover all California Delivery Partners, including Plaintiffs in this action;

WHEREAS, on December 9, 2020, the Parties stipulated to stay this action pending resolution

of the petition for writ of certiorari seeking review of *Rittmann v. Amazon.com, Inc.*, 970 F.3d 904 (9th Cir. 2020) (Dkt. 13);

WHEREAS, on February 22, 2021, the United States Supreme Court denied the petition for writ of certiorari seeking review of *Rittmann v. Amazon.com, Inc.*, 970 F.3d 904 (9th Cir. 2020);

WHEREAS, on March 10, 2021, the Parties came before the Court for a Case Management Conference and Amazon stated that it intended to file a Motion to Compel Arbitration or to Dismiss, Stay, or Transfer the action under the first-to-file rule;

WHEREAS, at the Case Management Conference, the Court indicated that it was inclined to transfer this action to the Western District of Washington and requested that the Parties confer regarding filing a stipulation to transfer this action;

WHEREAS, the Parties agree that this matter and the consolidated *Rittmann* and *Keller/Ponce* matters possess sufficient similarity of parties and issues to warrant application of the first-to-file rule given that: (1) Plaintiffs are members of the proposed putative classes in *Rittmann* and *Keller/Ponce*, (2) the Defendants are the same, and (3) the issues to be tried overlap significantly, including the core theory of liability advanced in all cases that Amazon Delivery Partners are misclassified as independent contractors;

WHEREAS, rather than engage in motion practice, the Parties have agreed to stipulate to have this action transferred to the Western District of Washington based on the first-to-file rule.

NOW, THEREFORE, the Parties, through their undersigned counsel, hereby stipulate, agree, and respectfully request that the Court enter an Order that:

1. This matter shall be transferred to the Western District of Washington.
2. All deadlines shall be vacated with any new deadlines to be set by the District Court for the Western District of Washington.
3. This Stipulation does not limit or affect Amazon's ability to file a motion, including a motion to compel arbitration, or other responsive pleading in response to the Complaint.

**IT IS SO STIPULATED.**

Dated: March 19, 2021

**POTTER HANDY LLP**

By: *James M. Treglio*  
Mark D. Potter  
James M. Treglio

*Attorneys for Plaintiffs RICKY DIAZ,  
EMANUEL ADAMSON, and JUAN  
MANUEL ALVAREZ*

Dated: March 19, 2021

**GIBSON, DUNN & CRUTCHER LLP**

By: *Katherine V.A. Smith*  
Katherine V.A. Smith  
Bradley J. Hamburger  
Michael Holecek  
Megan M. Cooney

*Attorneys for Defendants AMAZON.COM,  
INC. and AMAZON LOGISTICS, INC.*

**ATTESTATION**

I hereby attest that I have on file all holographic signatures corresponding to any signatures indicated by a conformed signature (/s/) within this e-filed document.

Dated: March 19, 2021

*Katherine V.A. Smith*  
Katherine V.A. Smith

**[PROPOSED] ORDER**

The Court, having considered the Joint Stipulation to Transfer Matter Pursuant to First-to-File Rule, and good cause appearing therefore, hereby **ORDERS**:

1. This matter shall be **TRANSFERRED** to the Western District of Washington.
2. All deadlines shall be **VACATED** with any new deadlines to be set by the District Court for the Western District of Washington.
3. This Order does not limit or affect Amazon's ability to file a motion, including a motion to compel arbitration, or other responsive pleading in response to the Complaint.

**PURSUANT TO THE STIPULATION, IT IS SO ORDERED.**

Dated: March 23, 2021

